

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, AUGUST 21, 2012**

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Constant, Herrera, Kalra, Pyle, Rocha; Reed.

Absent: Council Members - Chu, Liccardo, Nguyen, Oliverio. (Excused)

### **STRATEGIC SUPPORT SERVICES**

#### **3.2 Accept Labor Negotiations Update.**

There was no Staff presentation.

### **CLOSED SESSION**

Upon motion unanimously adopted, Council recessed at 9:04 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation: (1) City, et al. v. County of Santa Clara, et al; Names of Parties Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara and Does 1 through 100, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Petition for Peremptory Writ of Mandate and Complaint for Declaratory Relief, Injunctive Relief and Damages. (2) Watson-Stalker, et al. v. City, et al; Names of Parties Involved: Tracy Watson, Renee Stalker, Olivia Stalker, Shafer Watson, Riley Watson, County of Santa Clara, County of Santa Clara Department of Family and Children Services, County of Santa Clara Department of County Counsel, County of Santa Clara District Attorney's Office, Santa Clara Valley Medical Center, Evergreen School District, City of San José, San José Police Department, Norma Sparks, Yazmina Letona, Sharon Burgan, Jewels Ramirez, Vu Tran, Ann Miller Ravel, Rima Singh, Aaron West, George Kennedy, Clifton Black, Rose Real, Robert Pruitt,

## **CLOSED SESSION (Cont'd.)**

Cheryl Harms, Claudia Blodgett, Gary Kishimoto, John Hamilton, Anita Noble, Janet Kahle, Mary Ritter, David Kearns, Rajul Kazi, Rob Davis, William Hoyt, Craig Blank; Court: United States District Court, Northern District of California; Case No: C06-04029 RMW; Amount of Money or Other Relief Sought: Damages according to proof. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter. (C) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

## **CLOSED SESSION (Cont'd.)**

(D) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter pertaining to the Successor Agency to the Redevelopment Agency of the City of San José. (E) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation pertaining to the Successor Agency to the Redevelopment Agency of the City of San José: (1) City, et al. v. County of Santa Clara, et al; Names of Parties Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara and Does 1 through 100, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Petition for Peremptory Writ of Mandate and Complaint for Declaratory Relief, Injunctive Relief and Damages.

By unanimous consent, Council recessed from the Closed Session at 11:05 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Herrera, Kalra (1:46 p.m.), Liccardo, Nguyen, Oliverio (1:37 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - Constant. (Excused)

## **INVOCATION**

Venerable Soeur Sochin, Venerable Son Yeong Ratana, Venerable Kann Sophannrith and Venerable Pok Ngeth, San José Cambodian Buddhist Society, presented the Invocation. (District 7)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 4.1 was deferred to September 11, 2012. (8-0-3. Absent: Constant, Kalra, Oliverio.)

## CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to District 8 resident, Nathan Ganeshan, for his outstanding notary work and his commitment to giving back to the community through his free notary services to senior citizens. (Herrera)  
(Rules Committee referral 8/15/12)**

Mayor Reed and Council Member Herrera recognized and commended Nathan Ganeshan for his exemplary work and commitment to the community.

- 1.4 Presentation of commendations to Steven Beitashour, Chris Wondolowski, Ramiro Corrales and Justin Morrow of the San José Earthquakes for being named to the 2012 Major League Soccer All-Star squad, and for their contributions and the continued commitment to serving our community through excellence both on and off the soccer pitch. (Pyle)  
(Deferred from 8/7/12 – Item 1.4)**

Mayor Reed and Council Member Pyle recognized and commended Steven Beitashour, Chris Wondolowski, Ramiro Corrales and Justin Morrow of the San José Earthquakes.

## CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

- 2.1 Approval of Minutes.**

There were none.

- 2.2 Final adoption of ordinances.**

- (a) ORD. NO. 29118 – Rezoning certain real property situated at the southeast corner of Winchester and Stevens Creek Boulevards (commonly referred to as Santana Row), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC12-009**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29118 executed on August 8, 2012, submitted by the City Clerk.

Action: Ordinance No. 29118 was adopted. (10-0-1. Absent: Constant.)

### **2.3 Approval of Council Committee Reports.**

There were no Council Committee Reports.

Public Comments: David Wall urged the Council Members to review the Storm Drain Annual Report which was heard at the Transportation and Environment Committee Meeting last week.

### **2.4 Mayor and Council Excused Absence Requests.**

There were none.

### **2.5 City Council Travel Reports.**

There were none.

### **2.6 Report from the Council Liaison to the Retirement Boards.**

There were none.

### **2.7 Authorize the City Manager to amend the existing Open Purchase Order 46929 with Essential Staffing, (Walnut Creek, CA), to encumber an additional \$130,745 for a revised total amount not-to-exceed \$380,744 for continued temporary employment services of six Workers' Compensation Claim Adjusters for the term ending December 31, 2012. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

Documents Filed: City Council Action Request from Acting Director of Finance Julia H. Cooper, dated August 7 2012, recommending amending the existing Open Purchase Order 46929.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: The existing Open Purchase Order 46929 with Essential Staffing to encumber an additional \$130,745 for a revised total amount not-to-exceed \$380,744 for continued temporary employment services of six Workers' Compensation Claim Adjusters for the term ending December 31, 2012, was approved. (10-0-1. Absent: Constant.)

### **2.8 Report on bids for the retrofit of five passenger elevators with the following recommended actions:**

- (a) Authorize the City Manager to execute a Purchase Order with the low bidder, Ascent Elevator Services, Inc. (San Francisco, CA) in the amount of \$622,245.**
- (b) Approve a 10% contingency for a not-to-exceed amount of \$62,225 to execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

## 2.8 (Cont'd.)

Documents Filed: City Council Action Request from Acting Director of Finance Julia H. Cooper, dated August 8 2012, recommending executing a purchase order with the low bidder and approval of the contingency.

Action: The City Manager was authorized to execute a Purchase Order with the low bidder, Ascent Elevator Services, Inc. in the amount of \$622,245 and a 10% contingency for a not-to-exceed amount of \$62,225 to execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services, was approved. (10-0-1. Absent: Constant.)

## 2.9 **Adopt a resolution authorizing the City Manager to negotiate and execute the Second Amendment to the Agreement with Turbo Data Systems, Inc. to:**

- (a) Provide an on-line appeal process and support new handheld citation writing equipment currently on order.**
- (b) Revise the compensation rate to reduce fees for special collections and increase discounts for citation processing.**
- (c) Extend the term of the Agreement by six months from December 31, 2013 to June 30, 2014 and add three additional one-year options to renew the agreement, subject to the appropriation of funds.**

**CEQA: Not a Project, File No.PP10-066(a), Agreements and Contracts for Professional Services. (Finance/Transportation)**

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper and Director of Transportation Hans Larsen, dated July 30, 2012, recommending adoption of a resolution.

Action: Resolution No. 76394, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with Turbo Data Systems, Inc. for Parking Citation Processing and Collection Services", was adopted. (10-0-1. Absent: Constant.)

- 2.10 (a) Approval of the Freeway Agreement between the City of San José and the State of California for that portion of State Highway Route 85 from Miyuki Drive to 0.4 miles east of Route 87 and authorizing the construction or reconstruction of City streets as part of the highway project in accordance with California Streets and Highways Code Section 100.2.**
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute all right-of-way certifications, utility agreements and related Caltrans-required documents associated with the implementation of the Route 85/Cottle Road Interchange Improvement Project.**

**CEQA: Resolution No. 72772. Council District 2. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated July 30, 2012, recommending approval of the Freeway Agreement and adoption of a resolution.

**2.10 (Cont'd.)**

Public Comments: Roland Lebrun requested more outreach to the community and to keep the community involved with regard to the Route 85/Cottle Road Interchange Improvement Project.

Action: The Freeway Agreement between the City of San José and the State of California for that portion of State Highway Route 85 from Miyuki Drive to 0.4 miles east of Route 87 was approved, the construction or reconstruction of City streets as part of the highway project in accordance with California Streets and Highways Code Section 100.2, was authorized, and Resolution No. 76395, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute All Right of Way Certifications, Utility Agreements and Related Caltrans-Required Documents Associated with the Implementation of the Route 85/Cottle Road Interchange Improvement Project”, was adopted. (10-0-1. Absent: Constant.)

**2.11 Approve travel by Council Member Campos to Fresno, CA on August 15 – 17, 2012 to attend the League of California Cities “California Civic Leadership Institute.” Source of Funds: District 5 Funds and the League of California Cities. (Campos) (Rules Committee referral 8/15/12)**

Documents Filed: Memorandum from Council Member Campos, dated August 2, 2012, requesting authorization of travel.

Action: The travel for Council Member Campos was approved. (10-0-1. Absent: Constant.)

**2.12 As recommended by the Rules and Open Government Committee on August 15, 2012, approve the following appointments to the Youth Commission all two-year terms, expiring May 31, 2014:**

- (a) Citywide Youth Commissioner Tara Pichumani. (Mayor)
  - (b) District 1 Youth Commissioner Kimberly Tan. (Constant)
  - (c) District 2 Youth Commissioner Thuy Phuong. (Kalra)
  - (d) District 3 Youth Commissioner Christian Dale Sanchez. (Liccardo)
  - (e) District 8 Youth Commissioner Francis Nguyen. (Herrera)
  - (f) District 10 Youth Commissioner Alexander Polussa. (Pyle)
- [Rules Committee referral 8/15/12 – Items F(1)(a) – F(1)(f)]

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 16, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Youth Commission appointments as described above in Item 2.12, were approved. (10-0-1. Absent: Constant.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone announced that All Nippon Airways will have a new nonstop flight between the San José International Airport and Narita International Airport in Tokyo beginning January 11, 2013. City Manager Figone reported that in response to recent gang violence the Mayor's Gang Prevention Task Force was activated and protocol initiated.

City Manager Debra Figone congratulated Gloria Schmanek in her new role as Agenda Services Manager.

### 3.3 As recommended by the Rules and Open Government Committee on August 1, 2012, adopt a resolution approving revisions to Council Policy 1-17, "Donation, Sponsorship and Fundraising Policy." (City Manager's Office) [Rules Committee referral 8/1/12 – Item G(8)] (Deferred from 8/14/12 – Item 3.4)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

City Attorney Richard Doyle and City Manager Debra Figone responded to questions from Council Member Rocha.

Action: Upon motion by Council Member Rocha, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76396, entitled: "A Resolution of the Council of the City of San José Revising Council Policy 1-17, Donation, Sponsorship and Fundraising Policy", was adopted. (10-0-1. Absent: Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Approve an ordinance to add Chapter 13.14, repeal Chapters 13.12, 13.16, and 13.22, and amend Chapter 13.44 of Title 13 of the San José Municipal Code, in order to establish comprehensive regulations pertaining to outdoor special events on or at City streets, parks, paseos and plazas. CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no changes to the physical environment. (City Attorney's Office)

Documents Filed: Memorandum from Council Member Liccardo, dated August 20, 2012, recommending deferral of Item 4.1 to September 11, 2012.

Action: Deferred to September 11, 2012 per Orders of the Day.



**4.2 Adopt a resolution amending the 2012-2013 Fees and Charges (Resolution No. 72737) to:**

- (a) Establish a Paseo/Plaza Single-Use Permit fee of \$60 to partially recover the costs associated with the application review and coordination for a one to three day event at Parque de los Pobladores (also known as Gore Park).**
- (b) Establish a Paseo/Plaza Series Permit fee of \$100 to partially recover the costs associated with the application review and coordination for a series of up to four events or activities held within a three month period at Parque de los Pobladores (also known as Gore Park).**
- (c) Establish a Paseo/Plaza Permit Amendment fee of \$30 to partially recover the costs associated with amending and coordinating a previously approved permit application for use of Parque de los Pobladores (also known as Gore Park).**

**CEQA: Categorically Exempt, File No. PP12-037. (Economic Development/City Manager's Office)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer A. Maguire, dated July 30, 2012, recommending adoption of a resolution.

Cultural Affairs Project Director Tammy K. Turnipseed and Director of Economic Development/Chief Strategist Kim Walesh responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval of the Staff recommendations with a modification to the Staff report dated July 30, 2012, Paragraph 3, Page 3, to allow flexibility for series permits that occur at less than regular dates and times. Council Member Herrera seconded the motion.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76397, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 As Previously Amended by Resolution Numbers 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230 and 76282 To Establish Paseo/Plaza Use Permit Fees for Temporary Outdoor Uses of Parque De Los Pobladores, To Be Effective August 21, 2012", was adopted, as amended, with a modification to the Staff report dated July 30, 2012, Paragraph 3, Page 3 to allow flexibility for series permits that occur at less than regular dates and times. (10-0-1. Absent: Constant.)

## NEIGHBORHOOD SERVICES

- 5.1 Approve a consultant agreement with Tetra Design / BFGC-IBI GROUP Joint Venture for project design, preparation of construction documents, and construction administration services for the Southeast Branch Library project from the date of execution to August 31, 2016, in an amount not to exceed \$1,098,900. CEQA: Addendum to the Evergreen Specific Plan EIR, Resolution No.63719, File No. PP10-008. Council District 8. (Public Works/Library)**

Documents Filed: (1) Memorandum from Council Member Herrera, dated August 20, 2012, recommending approval of the consultant agreement with additional direction. (2) Memorandum from Director of Public Works David Sykes and Interim Library Director Anne Cain, dated July 30, 2012, recommending approval of the consultant agreement.

Motion: Council Member Herrera moved approval of her memorandum dated August 20, 2012, recommending approval of the consultant agreement with additional direction as described in “Action” below. Council Member Pyle seconded the motion.

Director of Public Works David Sykes responded to Council questions and concerns.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Herrera, dated August 20, 2012 was approved, approving the consultant agreement with Tetra Design/BFGC-IBI GROUP Joint Venture for project design, preparation of construction documents, and construction administration services for the Southeast Branch Library project from the date of execution to August 31, 2016, in an amount not to exceed \$1,098,900, with Staff directed to explore design options for maximizing the square footage of the community room. (10-0-1. Absent: Constant.)

## TRANSPORTATION & AVIATION SERVICES

- 6.2 Approve actions to support the I-280/I-880/Stevens Creek Boulevard interchange improvement project:**
- (a) Adopt a resolution, as a responsible agency for the project under CEQA, in accordance with the provisions of Section 15096(h) of the CEQA Guidelines, with the following findings:**
    - (1) That the City Council has read and considered the Environmental Impact Report for the project and concurs with the Lead Agency’s (Caltrans’) analysis.**
    - (2) That changes have been incorporated into the project that lessen the significant environmental effects of the project.**
    - (3) That the changes required to lessen the effects of the project are the responsibility of Caltrans, and that Caltrans has adopted those changes.**

- 6.2 (b) Approve the Freeway Agreement between the City of San José and the State of California for the Highway 17 (from Downing Ave. to Highway 280), Highway 280 (from South Bascom Avenue to South Winchester Avenue) and Highway 880 (Highway 280 to Forest Avenue) authorizing the construction or reconstruction of certain City streets as part of the highway interchange project in accordance with California Streets and Highways Code Section 100.2.**

**CEQA: Adopted under Item 6.2(a) on Page 10. Council Districts 1 and 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated July 30, 2012, recommending adoption of a resolution and approval of freeway agreement.

Director of Transportation Hans Larsen presented the report and responded to Council questions and concerns.

Motion: Council Member Oliverio moved approval of the Staff recommendations. Council Member Campos seconded the motion.

Public Comments: David Wall and Ross Signorino expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76398, entitled: “A Resolution of the Council of the City of San José Adopting Findings for Purposes of and Pursuant to the Provisions of the California Environmental Quality Act of 1970 In Connection with the Approval of Discretionary Actions by the City Necessary for the Improvements at SR-17/I-280/I-880 Interchange and I-880/ Stevens Creek Boulevard Interchange Project”, was adopted and the Freeway Agreement between the City of San José and the State of California for the Highway 17 (from Downing Ave. to Highway 280), Highway 280 (from South Bascom Avenue to South Winchester Avenue) and Highway 880 (Highway 280 to Forest Avenue) authorizing the construction or reconstruction of certain City streets as part of the highway interchange project in accordance with California Streets and Highways Code Section 100.2 was approved. (10-0-1. Absent: Constant.)

- 6.3 Approve an agreement with Mark Thomas & Company, Inc. for engineering consultant services for the Route 101/Mabury Road interchange project for a term from date of full execution to June 30, 2014, with the City’s option to extend for up to two additional one year periods, and in the amount not to exceed \$1,604,420. CEQA: Exempt, File No. PP10-066(d), Consultant Services. Council District 3&4. (Transportation)**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated August 21, 2012, recommending approval of Staff’s proposed direction with amendments as described in “Action” on Page 12. (2) Memorandum from Director of Transportation Hans Larsen, dated July 30, 2012, recommending approval of the agreement.

### 6.3 (Cont'd.)

Motion: Council Member Liccardo moved approval of his memorandum dated August 21, 2012, approving Staff's proposed direction with amendments as described below in "Action". Council Member Chu seconded the motion.

Director of Transportation Hans Larsen presented closing comments.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated August 21, 2012, was approved. Staff's proposed direction was approved, with the amendment that between now and 2017, Staff was directed to report twice yearly to the Transportation and Environment Committee, through the already scheduled Regional Transportation Updates: (1) a funding strategy with clear deadlines to ensure that the regional, state and federal funds are secured to complete the \$57 Million project by the time that BART is operational in Berryessa, and (2) the status of our efforts to secure that funding. (10-0-1. Absent: Constant.)

## PUBLIC SAFETY SERVICES

### 8.1 Adopt a resolution authorizing the City Manager to:

- (a) **Negotiate and execute an Agreement with Law Enforcement Psychological Services, Inc. related to providing psychological services to the San José Police Department for the period of July 1, 2012 to June 30, 2013 in an amount not to exceed \$231,875.**
- (b) **Negotiate and execute four additional annual renewal options with the total amount of compensation for the entire contract not to exceed \$1,159,375.**

**CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Police)**

Documents Filed: Memorandum from Chief of Police Christopher M. Moore, dated July 30, 2012, recommending adoption of a resolution.

Public Comments: Mark Trout spoke in opposition to the Staff recommendations.

Mayor Reed offered closing comments.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 76399, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Law Enforcement Psychological Services, Inc. To Provide Psychological Services for the Police Department", was adopted. (9-0-2. Absent: Campos, Constant.)

- 8.2 (a) **Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative Grant, to accept the 2011 UASI grant allocation in the amount of \$1,748,879 and to negotiate and execute additional amendments and related documents without further Council action.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund in fiscal year 2012-2013:**
- (1) **Establish a city-wide appropriation to the Police Department for the 2011 UASI Grant - Police in the amount of \$1,143,879.**
  - (2) **Establish a city-wide appropriation to the Fire Department for the 2011 UASI Grant - Fire in the amount of \$605,000.**
  - (3) **Increase the estimate for Revenue from the Federal Government by \$1,748,879.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and contracts. (Police/City Manager's Office)**

Documents Filed: Memorandum from Chief of Police Christopher M. Moore, Fire Chief William McDonald and Budget Director Jennifer A. Maguire, dated July 30, 2012, recommending adoption of a resolution and appropriation ordinance and resolution amendments.

Motion: Council Member Pyle moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Deputy Chief of Police David J. Hober responded to Council questions.

Public Comments: Mark Trout presented comments to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76400, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement Between the City of San José and the City and County of San Francisco, Acting as Fiscal Agent for the Bay Area Urban Areas Security Initiative (UASI), To Allocate 2011 UASI Grant Funds to the City of San José in the Total Amount of \$1,748,879 and To Negotiate and Execute Additional Amendments and Related Documents Without Further Council Action"; Ordinance No. 29123, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund for the 2011 Urban Areas Security Initiative (UASI) Grant for the Police and Fire Departments; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76401, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 To Adjust Revenues in the General Fund", were adopted. (9-0-2. Absent: Campos, Constant.)

## REDEVELOPMENT – SUCCESSOR AGENCY

### 9.1 Adopt resolutions:

- (a) **By the City Council, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of San José, approving the Administrative Budget for January-June 2013 and directing staff to present it to the Oversight Board for approval.**
- (b) **By the City Council approving the January-June 2013 Administrative Budget.**

**(Deferred from 8/7/12 – Item 9.1)**

Documents Filed: Memorandum from Managing Director Richard A. Keit, dated August 16, 2012, recommending adoption of resolutions.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

City Manager Debra Figone and City Attorney Richard Doyle responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Successor Agency Resolution No. 7015, entitled: “A Resolution of the Council of the City of San José Acting in Its Capacity as the Successor Agency to the Redevelopment Agency of the City of San José Approving the Administrative Budget of the Successor Agency for January – June 2013; and Directing Staff to Present It To the Oversight Board for Approval” and Resolution No. 76402, entitled: “A Resolution of the Council of the City of San José Approving the Administrative Budget of the Successor Agency of the Redevelopment Agency of the City of San José for January – June 2013”, were adopted. The City Attorney was directed to circulate an information memorandum to the full Council about the availability and/or use of the 20% tax increment funds. (10-0-1. Absent: Constant.)

### 9.2 **Adopt a resolution by the City Council acting in its capacity as the Successor Agency to the Redevelopment Agency Board approving the Recognized Obligation Payment Schedules (ROPS) for July 1 - December 31, 2012 (ROPS 2) and January 1 – June 31, 2013 (ROPS 3).**

Action: Deferred to August 28, 2012.

## **OPEN FORUM**

- (1) David Wall provided comments and suggestions regarding the Water Pollution Control Plant and the status of the engines.
- (2) Mark Trout presented his views on various societal issues.
- (3) Ross Signorino congratulated the City on the addition of a nonstop flight to Tokyo from the San José International Airport and urged the Council to enforce strict rules for bicyclists and encourage the use of reflective clothing and helmets.

## **ADJOURNMENT**

The Council of the City of San José adjourned the afternoon session at 3:09 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 3:09 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.

Absent: Council Members - Constant. (Excused)

City Clerk Dennis D. Hawkins read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Constant.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to Morrill Middle School's Boys Basketball Team for their championship. (Chu)**

Mayor Reed and Council Member Chu recognized and commended the Morrill Middle School's Boys Basketball Team.

### **1.2 Presentation of a commendation to the Silicon Valley Chiefs for winning the California State Lacrosse Club Cup Championship. (Pyle)**

Mayor Reed and Council Member Pyle recognized and commended the Silicon Valley Chiefs.

### **1.5 Administer Oaths of Office to Citywide Youth Commissioner Tara Pichumani, District 1 Youth Commissioner Kimberly Tan, District 2 Youth Commissioner Thuy Phuong, District 3 Youth Commissioner Christian Dale Sanchez, District 8 Youth Commissioner Francis Nguyen, and District 10 Youth Commissioner Alexander Polussa. (City Clerk)**

City Clerk Dennis D. Hawkins, CMC administered the Oaths of Office to the Youth Commissioners. Mayor Reed and Council Members Liccardo, Pyle, Kalra and Herrera were also present.



## TRANSPORTATION & AVIATION SERVICES

### 6.1 Approve the following actions to install two miles of new bike lanes in support of Envision 2040 transportation goals:

- (a) On Hedding Street, authorize the removal of vehicular travel lanes between the Guadalupe River Trail and Seventeenth Street and all on-street parking spaces between First and Fifteenth Street.
- (b) On Ocala Avenue, authorize the removal of vehicular travel lanes between Capitol Expressway and White Road.
- (c) Adopt a resolution to repeal Resolution No. 76192 and authorize the installation of bicycle lanes on the following streets in accordance with California Vehicle Code section 21207:
  - (1) Hedding Street between the Guadalupe River Trail and Seventeenth Street.
  - (2) Ocala Avenue between Capitol Expressway and White Road.

**CEQA: *Hedding Street* - Use of the North San José Development Policies Update EIR, File No. PDC05-114, Resolution No. 72768, and Use of the San José Flea Market General Plan Amendment & Planned Development Rezoning EIR, File Nos. GP06-04-01/GPT06-04-01, Resolution No. 73738, and an Addendum thereto, File No. 12-068. *Ocala Avenue* - Categorically Exempt, File Number PP12-067. Council District: 3, 5 & 8 (Transportation)**

Documents Filed: (1) Memorandum from Council Members Liccardo, Herrera and Campos, dated August 17, 2012, recommending approval of the Staff recommendations, with amendments as described below in “Action”. (2) Memorandum from Director of Transportation Hans Larsen, dated July 30, 2012, recommending approval of the actions as described above to install two miles of new bike lanes in support of Envision 2040 transportation goals and adoption of a resolution. (3) Letter from Martin Delson, dated August 21, 2012, urging the Council to accept the Staff recommendations and allow the work to proceed to install bicycle lanes on Hedding Street. (4) Email from Katja Irvin, District 3 resident, dated August 17, 2012, expressing support to install the bicycle lanes.

Director of Transportation Hans Larsen presented the report on the Hedding and Ocala Bike Lane Projects.

Public Comments: Speaking in support to the Staff recommendations were Mark Sauerwald, Jessica Zenk, Silicon Valley Leadership Group, Richard Lapp, Candice Stein, Colin Heyne, Silicon Valley Bicycle Coalition, Mary Ellen Kendall, Marni Kamzan, Patricia Gonzalez, Betsy Mejias, Chris Donovan, Janet Lafleur, Carlos Babcock, Antonina, Tina Morrill, Debbie Wade, Eny Mendoza, Martin Delson, Katie Heaney, San José Bike Party, Jane Guinther, Richard Nevle, Nick Laskowski, Janet and Laura Perez.

Speaking in opposition to the Staff recommendations because of the loss of parking, among other concerns, were Dave Kraszewski, Mabel Rodarte, Charles Hope and Dave Truslow.

## 6.1 (Cont'd.)

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Council Members Herrera and Campos, dated August 17, 2012, recommending approval of the Staff recommendations with amendments as described below in “Action”. Council Member Campos seconded the motion.

Director of Transportation Hans Larsen responded to Council questions.

Mayor Reed, Vice Mayor Nguyen and Council Members Herrera, Kalra and Oliverio expressed their support to the motion on the floor.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Members Liccardo, Herrera and Campos, dated August 17, 2012, was approved, the Staff recommendations to implement the Hedding and Ocala Bike Lanes Projects were approved, with the following amendments: (1) Utilize a green slurry seal for bike lanes on both westbound and eastbound lanes of Hedding Street, throughout the distance of the project, to provide a visual differentiation from auto traffic lanes. (2) Utilize a full buffer for lanes in the Hedding Street corridor, with the exception of specific blocks where existing street parking will be maintained for residents and businesses: (a) Westbound Hedding (on the north side) between 2nd Street and 8th Street. (b) Eastbound Hedding (on the south side) between 4th Street and 7th Street. (3) Upon the completion of BART construction in 2017, return to Council to evaluate the status of the status of the existing primary bike facilities on Hedding Street and consider improvements in consultation with the community and Resolution No. 76403, entitled: “A Resolution of the Council of the City of San José Designating Bicycle Lanes on Those Portions of Streets Specified Herein Pursuant to the Authority of California Vehicle Code Section 21207, and Repealing Resolution No. 76192”, was adopted. (10-0-1. Absent: Constant.)

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the northwest corner of Oakland Road and Atteberry Lane (2215 Oakland Road from the IP Industrial Park Zoning District to the CIC Combined Industrial/Commercial Zoning District to allow Combined Industrial/Commercial uses on an approximately 1.76 gross acre site (JJJ Properties LLC, Owner/Playing at Learning, Applicant). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041, File No. C12-013. C12-013 – District 4**

**11.1 (a) (Cont'd.)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C12-013, dated July 30, 2012, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 3, 2012, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and Ordinance No. 29124, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Oakland Road and Atteberry Lane Comprising a 1.76 Gross Acre Site (2215 Oakland Road) to the CIC Combined Industrial/Commercial Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

- (b) Consideration of an ordinance rezoning the real property located on the west side of North 13th Street, approximately 260 feet southerly of East Mission Street (761 North 13th Street) from the CP – Commercial Pedestrian Zoning District to the A(PD) Planned Development Zoning District to allow a 7,700 square foot retail use (AutoZone) on a 0.53 gross acre site (Fernandez Jesus and Virginia, Owner). SNI: 13th Street. CEQA: Exempt. Planning commission recommends approval (6-0-1).  
PDC11-022 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC11-022, dated June 13, 2012, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 30, 2012, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on June 8, 2012, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission was approved, and Ordinance No. 29125, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of North 13<sup>th</sup> Street, Approximately 260 Feet Southerly of East Mission Street (APN: 249-11-033, -034, -035; 761 North 13<sup>th</sup> Street) To the A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

- 11.1 (c) **Consideration of an ordinance rezoning the real property located at the southeast corner of Yerba Buena Road and Highway 101 (3800 Dove Hill Road) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for the development of 16 single-family detached residential units and a religious assembly use with up to 200 seats on a 7.24 gross acre site (Lo, Joey and Frances, Owner). CEQA: Mitigated Negative Declaration Resolution to be Adopted. Planning commission recommends approval (7-0-0).  
PDC11-003 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC11-003, dated July 3, 2012, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 30, 2012, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on June 22, 2012, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission was approved, and Ordinance No. 29126, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Yerba Buena Road and Highway 101 Comprising a 7.24 Gross Acre Site (3800 Dove Hill Road) to the A(PD) Planned Development Zoning District”, was passed for publication and CEQA Resolution No. 76404, entitled: “A Resolution of the Council of the City of San José Adopting the Sabercat Dove Hill Road Project Mitigated Negative Declaration, For Which an Initial Study Was Prepared, All in Accordance with the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (10-0-1. Absent: Constant.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## **PUBLIC HEARINGS**

- 11.2 Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the off-sale of alcohol and 24-hour use for an existing gas station and approve the conversion of 938 square feet of vending use to a retail mini-market on a .39-gross-acre site, in the CP Commercial Pedestrian Zoning District. Located at the southwest corner of Woodard Road and Union Avenue (3707 Union Avenue) (BMZ Investment, Owner). CEQA: Exempt.  
CP11-059 – District 9  
(Continued from 6/19/12 – Item 11.5)**

Director of Planning, Building and Code Enforcement Joseph Horwedel provided comments.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Rocha, seconded by Council Member Pyle and carried unanimously, Item 11.2 was continued to August 28, 2012 with Staff directed to return to Council for approval of the 24-hour use. Resolution No. 76405 was not used. (10-0-1. Absent: Constant.)

- 11.3 Consideration of an ordinance rezoning the real property located on the southeast corner of Airport Parkway and Matrix Boulevard (1887 Matrix Boulevard) from IP(PD) to IP(PD) to allow banquet facilities and meeting rooms in conjunction with the cardrooms and tower in the existing Cardroom and Hotel development on an approximately 6.08 gross-acre site (Pete Lunardi, Eric Swallow, Owner; Trans Global Development Brian Turpin, Developer). CEQA: Envision San José 2040 EIR Resolution No. 76041.  
PDC12-019 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC12-019, dated July 30, 2012, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 3, 2012, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided introductory remarks.

Mayor Reed opened the public hearing.

### 11.3 (Cont'd.)

Barton Hechtman, on behalf of the Applicant, M8TriX spoke to the merits of the project.

Public Comments: Russell Filice and Linda Filice spoke in opposition to the project, stating that there is not enough parking and that the M8TriX Casino employees and patrons park in the neighborhood.

Barton Hechtman provided a rebuttal and addressed the parking issue.

Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and concerns. Brief discussion followed.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 29127, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on an Approximately 6.08 Gross Acre Site on the Southeast Corner of Airport Parkway and Matrix Boulevard (1887 Matrix Boulevard) to the IP (PD) Planned Development Zoning District”, was passed for publication, as amended, including: Staff was directed to: (1) Establish explicit, specific conditions which ensure that the banquet hall use is clearly limited to traditional uses for banquet halls. (2) Require a parking and traffic management plan and consultation with the surrounding property owners. (10-0-1. Absent: Constant.)

### 11.4 **Consideration of an ordinance rezoning the real property located on the south side of Montecito Vista Drive, approximately 800 feet westerly of Monterey Road (80 Montecito Vista Drive) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to amend previously approved development standards to allow 100 single-family attached units with an at grade parking configuration for the subject 1.73 gross acre site (City of San José Financing Authority, Owner). CEQA: Use of EIR. PDC12-011 – District 7**

Action: Dropped, to be renoticed to September 11, 2012.

## NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10026	Easterly corner of Berryessa Road and Jackson Avenue	4	Pulte Home Corporation	50 Lots/ 162 Units	MFA	Approve

## ADJOURNMENT

The Council of the City of San José was adjourned at 8:58 p.m. in memory of Marybel and Pedro Jimenez, proud and loving parents, who passed away on Monday, July 23, 2012. (Liccardo)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

smd/08-21-12 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/city> or <http://www.sanjoseca.gov/civiccentertv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.